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OFFICE OF PETITIONS

In re Application of

Namba, et al.

Application No. 09/127,067

Filed: July 31, 1998

Attorney Docket No. 3110-21

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed on September 24, 2007.

The petition is **granted**.

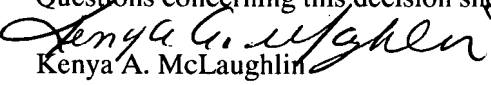
This application was held abandoned on June 9, 2005, after no reply was received to the non-final Office action mailed March 8, 2005. The notice set forth a shortened statutory period for reply of three months from its mailing date. A Notice of Abandonment was mailed on October 18, 2005. The instant petition was filed on September 24, 2007. Petitioner maintains that the notice of June 9, 2005, was never received and provides a copy of the relevant docket records as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as to prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file will be directed to Technology Center 3600, GAU 3651 for further processing including remailing of the non-final Office action and resetting of the time period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.


Kenya A. McLaughlin
Petitions Attorney
Office of Petitions